



August 31, 1999

Ms. Lilia Ledesma Gonzalez
Assistant City Attorney
City of McAllen
P.O. Box 220
McAllen, Texas 78505-0220

OR99-2454

Dear Ms. Ledesma Gonzalez:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 128677.

The City of McAllen (the "city") received a request for offense report number 99-23489. You claim that the requested information is excepted from disclosure under section 552.108 of the Government Code and section 51.14(d) of the Family Code. We have considered the exceptions you claim and reviewed the submitted information. We conclude that the report is excepted from disclosure pursuant to section 552.101 of the Government Code as information deemed confidential by law.¹

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Accordingly, section 552.101 encompasses confidentiality provisions such as Family Code section 58.007. Juvenile law enforcement records relating to conduct that occurred on or after September 1, 1997 are confidential under section 58.007. The relevant language of that statute reads as follows:

(c) Except as provided by Subsection (d), law enforcement records and files concerning a child may not be disclosed to the public and shall be:

- (1) kept separate from adult files and records; and
- (2) maintained on a local basis only and not sent to a central state or federal depository, except as provided by Subchapter B.

¹The Attorney General will raise section 552.101 on behalf of a governmental body, but ordinarily will not raise other exceptions. Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

Section 51.02(2)(A) defines "child" as a person who is ten years of age or older and under seventeen years of age.

The report at issue constitutes law enforcement records concerning juvenile conduct that occurred after September 1, 1997. Thus, the report is confidential pursuant to section 58.007(c) of the Family Code. Accordingly, the city must withhold the report from disclosure under section 552.101 of the Government Code.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Sincerely,



E. Joanna Fitzgerald
Assistant Attorney General
Open Records Division

EJF\nc

Ref: ID# 128677

Encl: Submitted documents

cc: Mr. Sagrario Zuviri
128 N. Cynthia Circle
McAllen, Texas 78501
(w/o enclosures)